IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

MONDAY, THE 18TH DECEMBER 2006 / 27TH AGRAHAYANA 1928

WP(C).No. 28224 of 2006(I)

PETITIONER:

JOY THOMAS,
PRESIDENT, IDUKKI DISTRICT CO-OPERATIVE BANK,
IDUKKI COLONY P.O., IDUKKI.

BY ADV. SRI.P.K.JOSE

RESPONDENTS:

---

1. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
TRIVANDRUM.

2. T.N. SASIDHARAN,
PULLELIL VEEDU, VIMALAGIRI P.O.,IDUKKI-685602.

3. KERALA STATE CO-OPERATIVE ARBITRATION
COURT, TRIVANDRUM, REPRESENTED BY ITS SECRETARY.

ADDL.4TH RESPONDENT

4. THE IDUKKI DISTRICT CO-OPERATIVE BANK LTD.,
NO.4334, HEAD OFFICE, IDUKKI COLONY P.O.
IDUKKI, PIN 685602, REP. BY ITS GENERAL MANAGER
(Impleaded as per order dated 29.11.2006 in I.A.16614/2006)

BY ADV. SRI.P.C.SASIDHARAN FOR R2
SRI.N.NANDAKUMARA MENON FOR ADDL. R4
SRI.P.K.MANOJKUMAR
GOVERNMENT PLEADER SRI.P.K. RAVIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1- TRUE COPY OF THE MEMO OF CHARGES NO.ESTDP/449/03-04 DATED 18.7.2003

EXT.P2- TRUE COPY OF THE PROCEEDINGS NO.EST.DP/449/E8/04-05 DATED 15.1.2005

EXT.P3- TRUE COPY OF THE PROCEEDINGS EST-DP/449/EB/04-05 DATED 20/1/2005

EXT.P4- TRUE COPY OF THE JUDGMENT IN W.A.314/2005 DATED 9TH MARCH, 2005.

EXT.P5- TRUE COPY OF THE ORDER NO.EST/DP/449/E8/05-06 DATED 7.2.2006

EXT.P6- TRUE COPY OF THE NOTICE NO.EM(1)12132/2006 DATED 19.10.2006.

(TRUE COPY)

P.A TO JUDGE

J.M.JAMES, J.

W.P.(C). 28224/2006

Dated this the 18th day of December, 2006

JUDGMENT

The second respondent was the Deputy General Manager of the additional fourth respondent, bank. He was given compulsory retirement from the service. He, however, filed a representation under Rule 176 of the Kerala Co-operative Societies Rules, 1969, in short 'the Rules', challenging, inter alia, the order passed against him and, therefore, the Registrar, through Ext.P6 order dated 19.10.2006, issued a notice to the concerned persons, including the additional fourth respondent, bank.

2. The writ petitioner was the president of the fourth respondent, bank. He filed the writ petition in that capacity. However, the Committee of the bank had been superseded under Section 33(1) of the Kerala Co-operative Societies Act, 1969, in short 'the Act'.

3. The challenge of the respondents is that the writ petitioner has got no right, in the changed circumstances, to file this writ petition and challenge Ext.P6 notice dated 19.10.2006, posted for hearing as per

Rule 176 of the Rules, on the representation given by the second respondent.

4. I heard the arguments advanced by the learned counsel for the writ petitioner and the counsel appearing for the second and additional fourth respondents. I had also heard the learned Senior Government Pleader.

5. Ext.P6 is only a notice issued for hearing of all concerned, including the additional fourth respondent, bank, regarding the challenge raised by the second respondent. Apprehension of the writ petitioner is that the order that may be passed pursuant to Ext.P6 will be final and, therefore, the same shall adversely affect the interest of the petitioner.

6. The representation, given by the second respondent, is only under Rule 176 of the Rules. The Registrar had got the authority to consider a representation given under Rule 176 of the Rules and pass appropriate orders, if he finds any mis-application of the provisions of the Act and Rules, done by any of the officials of the Co-operative Societies. Therefore,

anyone who filed the representation, should be heard under Ext.P6 notice.

7. In such situation, I am of the view that filing a writ petition, challenging a notice issued for hearing of the parties on a representation filed under Rule 176 of the Rules, is premature. Hence, I am not inclined to allow the prayer of the writ petitioner.

8. The learned counsel for the writ petitioner, however, submits that he may also be given an opportunity to represent before the Registrar.

9. I make it clear that if the writ petitioner moves an application before the Registrar, at the time of hearing of the representation filed by the second respondent, the Registrar may hear him provided he is entitled to be heard, as per the Acts and Rules.

The writ petition is disposed of as above.

J.M.JAMES
JUDGE

mrcs